

Preface

This handbook is the result of a serious effort by the California Administrative Office of the Courts and four volunteer courts serving as pilots to the develop a streamlined version of the Trial Court Performance Standards (TCPS). The project emerged from discussions held in 1997 among Presiding Judges and Trial Court Administrators about how to best gain the valuable results of the TCPS measurement process without having to invest substantial court resources in their achievement. After discussing the experience of the Los Angeles Municipal Court in attempting to implement all sixty-eight TCPS measures at once, the smaller courts in attendance expressed concern that the task would be impossible for them given their inherent resource limitations.

This project was created when four of those courts, Napa, Yolo, Long Beach and South Orange County, volunteered to pilot an effort for streamlining the standards to bring them within the capabilities of smaller jurisdictions. The **Essentials of Trial Court Performance** is the product of the willingness of these four courts to serve as laboratories of court performance measurement. Their thoughtful deliberations resulted in the “Fundamental Fourteen” performance standards that provide individual trial courts with the greatest return on their investment in asking the “How well are we doing?” question.

These fourteen measures, when combined with the existing Court Performance Survey System, create a streamlined process that should be within the capabilities of even the smallest courts. The Court Performance Survey System is an electronically-driven process for accomplishing the fifteen performance standards that require survey questionnaires to be administered to various court stakeholders. This is typically the most labor-intensive part of performance standard measurement. The electronic system allows a court to use a toll-free 800 number to gather data and a computer to analyze it.

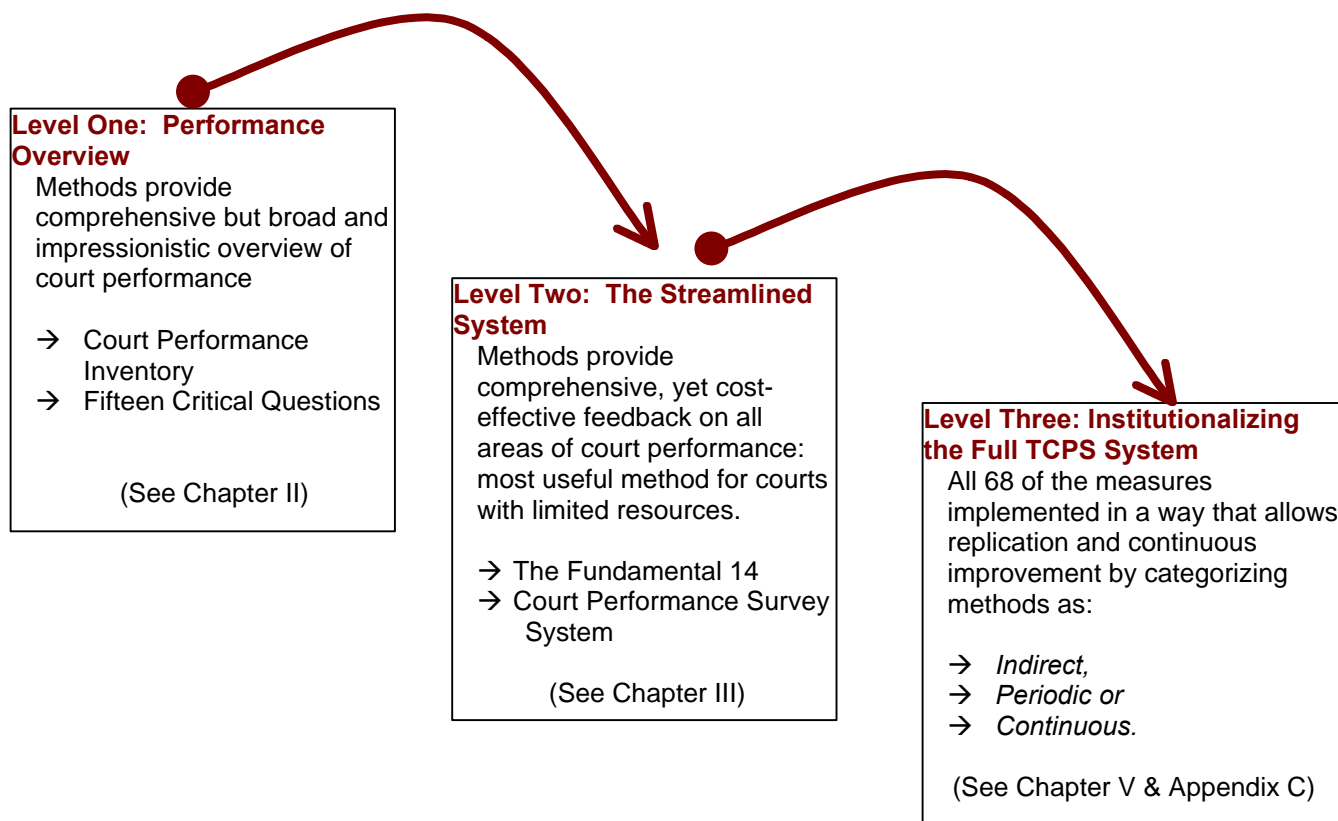
This handbook is intended to provide guidance to courts with limited resources in the design and use of a streamlined structure for performance measurement that is consistent with the Trial Court Performance Standards and Standard 30 of the California Judicial Council. It not only allows a court to evaluate performance effectively the first time, but fosters consistency in continuous improvement as well.

How to Use This Handbook

The **Essentials of Trial Court Performance** suggests a “drill down” method of measurement. This means that a court can begin learning something about its performance by using very broad and easy to administer tools (**Level One**). As time and resources permit, it is then possible to “drill down” to greater levels of detail (**Level Two**). Depending on the results generated, the court may want to stop at a certain level of information or continue to focus on areas where problems seem to be surfacing.

Additionally, the court may want to install a system of continuous measurement that permits improvement in every functional area. Certain of the measures in the Trial Court Performance Standards system are better done periodically, others only need to be taken indirectly, and still others can be performed continuously by managers and supervisors who have them assigned as part of their operating objectives (**Level Three**).

These outcomes are described in detail on the following pages. The handbook has been designed to permit the court to do as much or as little as resources allow and still gain valuable information in the process.



Essentials of Trial Court Performance

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Introduction

The Trial Court Performance Standards (TCPS) represent the first opportunity that courts have had to assess their health using outcomes as the relevant measure. Beginning with the assumption that no two courts are exactly alike, TCPS gives individual courts a way of determining both qualitatively and quantitatively what they “...actually accomplish with the means at their disposal.” Moreover, these accomplishments are rooted not in terms of the needs of court personnel, but rather directly in “...the needs of those served by the courts.”

This system is a significant departure from those that focus on the structure and machinery of the courts. It effectively counters simplistic methods that use filings and disposition numbers to compare one court to another in an attempt to infer something about the relative performance of each.

The TCPS system is very comprehensive and, as such, does a credible job of embracing all the important answers to the question “What should trial courts be held accountable for?” The TCPS 68 measures are grouped in 22 standard categories and five major outcome areas. They were carefully defined as a result of a project that sought:

Development of a manageable number (20 to 25) of standards of trial court performance....including performance measures or indicators, data collection methods and techniques by which the measures can be taken, requirements for data, and a performance evaluation scheme by which the measurement system can be applied by trial courts across the country....

That “manageable” number of standards has a total of sixty eight measures that must be completed using court staff, volunteers, experts and members of the community in order to examine all relevant court processes.

The Trial Court Performance Standards formed the framework for California Judicial Administration Standard 30 (See Appendix E for the complete text of Standard 30). It requires, “a new Standard of Judicial Administration consisting of performance standards to be used by trial courts in conducting periodic self-assessments and peer reviews.”

As it now stands, the comprehensive nature of the measurement system makes it difficult for all but the most sophisticated courts to implement this system. Furthermore, once completed, it is costly to replicate. This creates a significant dilemma because, in order to be effectively used, the evaluation of trial court performance must be repeated periodically so as to generate information that can be compared with the original “benchmark” evaluation. This is ultimately how performance improvement is measured.

The Trial Court Performance Standards: Implementation Issues

The Trial Court Performance Standards are the best, and perhaps only, set of performance measures ever developed for trial courts. They take into account the uniqueness of individual courts, yet give all courts a common framework for evaluation. They focus on outcomes and “customer” perceptions of performance. With sixty-eight measures in five major performance categories, they allow for a very comprehensive look at an individual court’s performance.

However, it is that same comprehensiveness that can create evaluative difficulty for a court attempting to use the standards to determine how well it is doing. The benchmark for assessing improvement is not other courts, but the same court over time. The Trial Court Performance Standards which are difficult enough to implement once, become an even more cumbersome instrument for evaluating continuous improvement. They require a significant investment even for the most well endowed courts.

Additionally, certain individual measures prescribe a methodological rigor that is difficult to attain. The investment required in their execution may not be worth the return realized in new information or better results. The executive need for immediate information requires that some of the more time consuming measures be streamlined. As they stand, certain of these techniques may generate data that is “too little, too late”.

Therefore, two important issues arise in attempting to implement the standards:

1. How can the entire set of measures be implemented so that a court can establish a performance “benchmark” and periodically replicate measurement; hence, allowing continuous improvement to be achieved?

2. Where appropriate and necessary, can individual measures be streamlined to provide a better information return for the resources invested in them?

The answers to these questions can make a good system (TCPS) even better. A set of measures that can be implemented routinely and efficiently by any court without exhausting its resources would be a valuable refinement to the present system. This handbook describes such a system.

In creating the streamlined model, three criteria were used in either modifying or omitting a measure:

1. All measures were conceptually examined for their return on investment (ROI). If an individual measure would require more court resources than it would return in useful information, it was modified or eliminated.
2. All measures were subjected to a test of managerial relevance. Based on the results achieved by the measure, what can the court do about it? If it was concluded that the court could take no action, or have no influence over any change called for by the measure, the measure was modified or eliminated.
3. Generally speaking, measures were omitted because they either were not applicable to the court's jurisdiction or there were existing institutional measures already in place, e.g., State approved testing for interpreters.

Toward Continuous Improvement: Institutionalizing the Trial Court Performance Standards

The ultimate utility of the measurement process will be realized through processes that can be implemented with relative ease and efficiency. The investment in their execution must be exceeded by the value-added nature of the information generated. Furthermore, information must be gathered in a timely enough fashion that necessary improvements can be generated. In this regard, not all measures are of equal significance, nor must methodological purity always be sought.

Effective executives never operate with 100 percent of the information that they need. There is a time value to information. Sometimes getting all of

the information is simply not worth it. Comprehensive rationality is impossible to achieve. Therefore, as Herbert Simon has said, because we operate with “bounded rationality” it is necessary to “satisfice”, i.e., make decisions that, while not perfect, are good enough. What is needed is a streamlined system of measurement that will permit the generation of information that is “good enough” for effective executive decisionmaking on a continuous basis within the court. Such a system will allow the court to produce useful data in a way that supports timely, performance-improving decisions.

Capturing the Critical Perceptions: Gathering the Most Information With the Least Difficulty

Obviously, all sixty-eight measures provide the court with valuable information about its performance. As a complete set, none are dispensable. However, courts are often limited by time and other resources that make it difficult to attack the entire set of measures at once. Further, if a court needs to begin the process sequentially, there must be a way to determine where to begin. By combining and modifying certain measures it is possible to create a set of a very few measures that are very powerful in terms of what they produce. That is the purpose of this Handbook.

I. Streamlining the Trial Court Performance Standards

The Trial Court Performance Standards system is a comprehensive measuring device for continuous improvement. As such, it is meant mainly as a tool for “formative”, i.e., ongoing, evaluation rather than “summative”, i.e., one-time evaluation. For the standards to be managerially relevant, they must be fast and flexible enough to give decision makers real-time information upon which to base decisions. They must allow for comparisons of court performance over time so that progress can be tracked.

The sixty-eight measures that constitute the existing system (see Appendix F for a summary of measures) provide for a complete picture of court performance. They have been examined, discussed and fine-tuned over the past ten years to satisfactorily include everything that a trial court should be held accountable for. However, it is just that comprehensiveness that makes the system somewhat cumbersome if it is

to create relevant and efficient feedback for court administrators and staff. Moreover, because the evaluation techniques employed by the system are so thorough, they also serve to slow the process of providing data to decisionmakers.

Experience has shown that this same set of positive qualities tends to work against courts with limited resources. Indeed, the size of resource investment required can deter a court from initiating the process, let alone replicating it over time. Therefore, in an attempt to make the system more manageable for courts with limited resources for data collection and analysis, some tradeoffs must be made relative to the return on investment that each attempt at performance assessment generates. Beginning with the assumptions that (1) trade offs must be made and (2) that the integrity of the original system must be maintained in the process, a faster, more flexible approach can be suggested.

In an attempt “do something” about performance measurement with its limited resources a court may be tempted to take an ad hoc approach by doing what they can in only one area of assessment ,e.g., access to justice, or by choosing measures that are easy to execute. Obviously, this does not allow for a complete picture to be generated and may, in fact, waste resources if the feedback is partial or incomplete.

It is preferable to create a synoptic system that allows the user to “drill down” with greater degrees of specificity. Beginning with a broad, but inclusive survey, decision makers can be assured of some feedback in all areas of court performance, rather than a great deal of feedback in one or few areas and no information in others. The approach described in this handbook permits a court to streamline the system while maintaining its overall integrity.

II. Getting the Big Picture: Performance Overview Tools

There are two important tools available for courts to begin the process of performance measurement with broad, first-level feedback. These are short, easy-to-administer instruments that can assist a court in educating its stake holders about performance standards and gather some initial information about perceived strengths and weaknesses in court operations. These short instruments, for other than educational purposes, should not be used as ends in themselves. They do not generate the

depth of information needed for effective strategic planning, issue identification or problem resolution. They can however, provide valuable summary information about widely held stakeholder perceptions regarding court performance. Otherwise, they should be supplemented with the more detailed techniques described later in this handbook. The short, easy-to-administer instruments include:

The Court Performance Inventory

This survey instrument is contained in Appendix D. It was developed some years ago to allow individuals to think about the Trial Court Performance Standards in their own court context, i.e., to personalize them. It is a fifty statement questionnaire that asks respondents to determine whether a given statement is “broadly true” or “broadly false” when applied to their court. There are ten statements for each of the five performance standards.

After scoring the instrument, individuals can compare their perceptions and impressions with those of others who may have a different perspective of the same court organization. Judges, court staff, District Attorney staff, Public Defender employees, law enforcement personnel and jurors often provide differing views on how well the court is performing. When summarized and examined together, they can provide court decision makers with important insights into problem areas of which they may have been unaware. Results may suggest a need for further analysis.

Fifteen Critical Questions

This is a similar comprehensive, yet subjective tool that can be used to gather a set of opinions from various stake holders about the effectiveness of court performance. These questions can be used on a routine or periodic basis to pinpoint areas in need of more detailed study and evaluation. The response to the questions can serve as “red flags” indicating the opportunity to apply the Trial Court Performance Standards in specific areas of court operation.

The following questions can be used to obtain such information:

1. Are court proceedings open, audible and easy to track?
2. Is the courthouse convenient and secure for its users?

3. Do children have adequate legal representation?
4. Are adequate tests/certifications in place for interpreters?
5. Can people with disabilities use the court facilities with ease?
6. Are litigants treated fairly, with courtesy and dignity in the court?
7. Is there adequate access to legal assistance for those who cannot afford it?
8. Do barriers to needed court services exist?
9. Does the court comply with all reporting schedules?
10. Is jury sourcing and selection inclusive and representative of the population?
11. Are sentencing and bail decisions handled with uniform equality and fairness?
12. Are proceedings, orders and judgments interpreted accurately and recorded verbatim?
13. Are the court's relations with the other branches of government healthy?
14. Are the court's relations with the media healthy?
15. Is the court well prepared to handle unanticipated changes in its environment?

These open-ended questions can be put to members of the court's various constituencies periodically to quickly assess the overall health of the operation. Neither of these techniques are substitutes for the detailed methodology of the Standards, but they can serve to target its eventual implementation. Both the court perception inventory and the 15 critical questions can be administered in an informal "manual" way to relevant respondent groups. They can even serve as methods for structuring the discussion in focus groups that the court may want to sponsor.

They can also be employed in a more formal way, capturing opinion data from a larger population by using the automated “800 number” system. Each of these surveys has been automated, allowing a court to distribute surveys to any number of constituents and having them respond by dialing an 800 number, sending their responses directly to the computer. They are automatically tabulated and sent to the court in report format. This is often the most economic and effective way to gather information for courts with limited resources.

III. The Essentials of Trial Court Performance: A Streamlined System

No streamlined system of measurement can be as comprehensive and thorough as the full Trial Court Performance Standards measurement model. Therefore, any attempt to create an abbreviated version must be one that is designed to lose as little information as possible while preserving all the value of the basic system. That value is derived from six sources: (1) it takes advantage of multiple measures, (2) it focuses on outcomes/results, (3) it includes both “hard” and “soft” measures, (4) it relies on both an individual and organizational focus, (5) it creates a benchmark to be tracked over time, and, (6) it emphasizes continuous improvement. Additionally, a streamlined system should address all five basic areas of court performance: access to justice; expedition/timeliness; equality, fairness and integrity; independence and accountability, and public trust and confidence.

By addressing a defined core of important measures and employing appropriate electronic technology, a streamlined system can be developed that satisfies the above criteria. That system is built on a core of five important measures that were identified by the participating pilot courts as being critical to any attempt to measure court performance.

Part One. The Court Performance Core

<u>Measure</u>	<u>Title</u>
1.1.1	Access to Open Hearings
1.2.5	Access to Information By Telephone
1.4.3	Treatment of Litigants in Court

2.1.3 Age of Pending Cases

4.4.3 Community Outreach Efforts

These measures provide court executives with five critical pieces of information about the status of cases, the treatment of litigants and the court's connection to the community. However, these five measures alone do not provide information in all areas of the basic TCPS model. They must be supplemented by nine others if a court is to be supplied with sufficient feedback in all five areas. This list is described as the **"Fundamental Fourteen"** and is the foundation of the streamlined model.

Part Two. The Essentials of Trial Court Performance: The Fundamental Fourteen

<u>Measure</u>	<u>Title</u>
1.1.1	Access to Open Hearings
1.2.5	Access to Information By Telephone
1.4.3	Treatment of Litigants in Court
2.1.3	Age of Pending Cases
2.1.4	Certainty of Trial Dates
2.3.1	Implementation of Changes in Substantive and Procedural Laws
3.2.3	Representativeness of Final Juror Pool
3.3.3	Equality and Fairness in Sentencing
3.3.4	Equality and Fairness in Bail Decisions
3.3.5	Integrity of Trial Outcomes
4.2.1	Adequacy of Statistical Reporting Categories for Resource Allocation

4.2.2	Evaluation of Personnel Resource Allocation
4.4.2	Assessment of the Court's Media Policies and Practices
4.4.3	Community Outreach Efforts

In the spirit of the basic Trial Court Performance Standards system, this taxonomy includes important measures in each of the four main areas of performance. The final outcome, Public Trust and Confidence, is achieved when these four are satisfied. In other words, the cumulative effect of these four results is an increase of public trust and confidence in the courts. (See Appendix A for a detailed description of these measures).

The figure on the following page (figure A) outlines the necessary components of a "Quick Implementation System" for these fourteen measures. In addition to a description of the standard and measure, it lists the methodology offered in the Trial Court Performance Standards and the recommended method for the streamlined system. Since replication is required for the continuous improvement of a court, this chart recommends the most effective monitoring method for each measure, i.e., Indirect, Periodic or Continuous. These are discussed in depth as part of the final section of this handbook.

Part Three. The Court Performance Survey System

There are fifteen measures in the full set of sixty-eight called for by the Trial Court Performance Standards system that require the distribution and analysis of survey questionnaires. For even the most resource-rich courts, these are time-consuming and complex activities. Doing them more than once is a near impossibility, yet replication is where their real value lies.

In order to address this problem for courts with limited resources, the automated Court Performance Survey System is available. This program combines all fifteen survey-based measures into seven questionnaires that respondents can complete using a toll-free 800 number. By punching their answers into the telephone when prompted, they allow the computer to organize and analyze the data. After all responses are entered, the computer generates a report for the court showing the results in graphic

and tabular form. Any number of data crossbreaks can be requested. Results are also compared to those of other courts in the database for benchmarking purposes. Survey questions and sampling parameters for this system is described in Appendix B. It requires no court resources in its execution except for distribution of the pre-coded questionnaires to each respondent group.

The Streamlined System: Recommended Approach

By creating a process within an individual court that combines both Part Two and Part Three above, all five areas of the Trial Court Performance Standards can be measured, accounting for almost half of the total (43 percent). This approach is broad enough to be comprehensive, yet deep enough to permit meaningful diagnosis and action on the part of the court's management. Although either of these alone will provide valuable and actionable information, the two together create the maximum return on a court's investment in performance measurement.

IV. Customizing the System for Your Court

“**A**ll courts are not created equal.” This is a common conclusion that court observers come to when attempting to compare one court with another. Although they have a common set of purposes, the way in which those purposes can be met in given jurisdictions may differ. Each court has a unique caseload, case mix, history, demographic picture, judicial mix and set of procedural habits. All make it difficult to find common yardsticks for making cross-court comparisons. At a given point in time one court's priorities may differ from those of another for precisely these reasons.

Therefore, it is not possible or desirable to offer a single, rigid system of performance measurement for each court. Within the framework provided by the Trial Court Performance Standards, an individual court must create its own set of diagnostics. In deciding whether or not to include a specific measure in a program of analysis, the following criteria were generated from the experience of the four pilot courts participating in this project.

Criteria for Evaluating Performance Standards

Eliminate the standard/measure if:

1. The court or someone else already does this.
2. It is too costly to evaluate.
3. Similar measures are already in place.

Include the standard/measure if:

1. It has the greatest impact on public perceptions about court effectiveness.
2. It allows external customers to inform the court about its performance.
3. It has an impact on regular court users.
4. It measures customer expectations.
5. It measures caseload management fundamentals (e.g., disposition rate, age of pending caseload).
6. It has statewide applicability.
7. The measure is vital to the standard.
8. It is a predetermined priority for the participating court.
9. It is a known problem area.

The diagram on the following page (Figure B) can be used as a decision helper in building a customized approach for a given trial court. It provides a set of decision points for courts to consider as they move from one level of detail in measurement technique to another. If a measure or set of measures is called for, it suggests the method by which the data can be gathered in the most cost-effective way. Using this tool, a court can apply the criteria mentioned above to its unique situation and create a customized approach to performance measurement using the tools provided in this handbook.

V. Toward Continuous Improvement: Institutionalizing the Standards

The development of a managerially relevant approach to the performance standards requires that the measures themselves be examined and categorized according to their logical place of execution in the organization. They must be analyzed in terms of accountability and responsibility for performance improvement. To date, the standards have typically been implemented by individuals and groups

selected by the participating courts to carry out the necessary measurements as “additional duties”. While this may ensure the implementation of the standards once, it is not an effective means of repeating them on a continuous basis. A way must be found to incorporate them into the day-to-day operating responsibilities of appropriate units and managers within the court.

Therefore, for purposes of facilitating the replication of the process after a court completes it for the first time, the full set of sixty-eight measures listed in the Trial Court Performance Standards has been divided into three categories:

Indirect Monitoring-Those that need to be measured only once and that, thereafter, can be monitored by relying on negative feedback when the standard is not operating effectively. The use of unobtrusive measures, probing questions whose answers may suggest a problem and complaints from customers can drive these measures.

Periodic Monitoring- Those that require positive measurement, but only at significant intervals. This can be done on a pre-determined measurement/audit schedule.

Continuous Monitoring - Those performance indicators that must be evaluated on a continuous basis. The initial measurement is considered a “benchmark” for further evaluation of these processes.

By creating this taxonomy of measures it is possible to assign implementation responsibilities appropriately. Those that must be monitored **continuously** should be made part of the responsibilities and objectives of individual managers at every level of the court organization. Those that require **periodic** examination can be assigned staff units for scheduling and execution. Those that lend themselves to **indirect** monitoring can be left to the existing mechanisms for customer feedback for notifying the court when a particular process is not operating properly and depending on the measure it can be implemented by either managers or staff personnel.

The measurement areas that fit each of the categories are attached as Appendix C. Courts may find it necessary to change the contents of these categories depending on the status of existing systems, e.g., the existence of statewide testing for interpreters. However, this listing fits well with the

structure, systems and processes in place in most courts at this time **Thirty-two** measures can be accomplished through indirect means. **Twenty Six** can be assigned to a staff unit or person for periodic evaluation. **Ten** should be part of the operating responsibilities of individual managers. A complete listing of trial court measurement assignment is included in Appendix C.

Monitoring Court Performance Indirectly

The above model suggests that a significant number of performance measures be monitored indirectly, i.e., without following the detailed methodology of the Trial Court Performance Standards. This is so because certain of the measures may be outside of an individual court's direct organization (Jury Services), satisfied by other means (Interpreter Testing and Certification), duplicated to some extent by other measures, or of lower value in terms of their return on investment.

For measures that a court may choose to place in this category it is not necessary to lose evaluative feedback altogether. Indirect monitoring simply means that the system is assumed to be working well and that exceptions will be reported as they occur. The court must ensure that appropriate feedback mechanisms are in place so that this information is delivered to management in a timely and accurate way. Two major techniques are available for doing this.

Unobtrusive measures may be used. These require no active intervention on the part of surveyors, but still result in feedback from the normal and customary use of the system. For example, patterns of traffic may be observed in the courthouse. Lines that are too long, jury assembly areas that are periodically too crowded, forms that are requested more often than others, may all suggest problems to observers of court processes.

Customer complaints provide a good source of feedback. Allowing attorneys, litigants and others with business in the courthouse to register opinions verbally and in writing can generate valuable information on the health of the operation.

Measuring Performance Periodically

A number of the measures can be used to provide the court with the information it needs to control performance if that data is generated on a

scheduled, periodic basis. Gathering such data on a semi-annual or more frequent basis would not result in added value and, in many cases, would carry prohibitive collection costs. The measures listed in this category lend themselves to an annual schedule of periodic audits by the court's Staff Units or persons. The staff of the court can prepare an annual survey schedule for these measures based on the urgency of the information needed and human resource constraints. The annual survey schedule should include the following variables:

- ⊕ Measure Number
- ⊕ Major TCPS Heading
- ⊕ Description/Title of Measure
- ⊕ Description of Method
- ⊕ Date of Last Measurement
- ⊕ Result of Last Measurement
- ⊕ Analyst Assigned
- ⊕ Start Date
- ⊕ Completion Date
- ⊕ Resources Required
- ⊕ Scope of Survey/ Units Involved, e.g., Courtwide, Traffic.

Using a tool such as this, it will be possible for the court to maintain a rolling schedule of surveys that may include only portions of the court at any given time, thereby maximizing the use of court resources and causing a minimum of distraction in the court's overall operation.

Measuring Performance Continuously

Certain of the trial court performance measures are so central to the daily effectiveness of operations that they should not only be monitored on a continuous basis, but whose monitoring should be made part of the basic responsibilities of operating managers and supervisors in the court. Effective monitoring of these measures should be made part of the managers' annual or semi-annual performance evaluations - managers should be held accountable for measurement and results.

The immediate task is, therefore, to communicate these expectations to managers and supervisors. They should be educated about what these measures mean and how they should be monitored. They should be provided the tools for monitoring each measure in this category. Many of these measures are based on customer perceptions or rates and status of

case-related information which may be part of an existing data gathering and reporting process employed by the court. If a jurisdiction's managers are accustomed to thinking in these terms, it should not be difficult to incorporate these measures into that system.

The court should develop an implementation plan for incorporating these measures into each manager's responsibilities. This would include workshops for imparting the necessary tools, forms for recording information, surveys for data collection and relevant charts for use at the level of management and supervision where the information would be most useful, (e.g., Pareto Charts, Cause and Effect Diagrams, and other trend displays for use in decision making at this level)

Using these measures at the operating level and making the necessary changes to court operations at that same level will give management throughout the court information to use in benchmarking processes and procedures, thereby keeping the court on a path of continuous improvement. Individual managers, as well as the court as a whole, will have more certainty in the answers to the questions, "How well are we doing?" and "Compared to what?"

VI. Relationship to Community-Based Strategic Planning and Trial Court Budgeting Process

Community-Based Strategic Planning

In recent years a number of forces have converged to complicate the environment of California's trial courts. Changing caseload characteristics were just the beginning. A proactive legislature and resource strapped county governments created new and dynamic requirements that most courts were ill-equipped to manage. Delay reduction legislation was followed by trial court coordination planning requirements. Budgets were prepared for both county funding processes and the newly created Trial Court Budget Commission.

In this context, courts are forced, more than ever, to perform as organizations, not merely a collection of individuals. They must create priorities and account for their use of resources. Certainly they should assert their independence, but they also must account for the interdependencies that characterize the larger system of government of

which they are a part. In short, if they are to be effective in tomorrow's environment, they must plan.

Strategic planning is relatively new to courts and public organizations generally. Although private sector organizations see it as essential for survival, public sector organizations have only recently found it important, or even possible. Courts, in particular, have historically been content to think only in the annual time frames provided by the budget planning process. Beyond that, they were content to be reactive rather than proactive vis-à-vis their environments.

Times have changed. In the current environment of increased public sector accountability, courts have recognized the value of strategic management. The need to focus on performance and service excellence in the competition for scarce resources makes planning essential if the courts are not to be left behind. Courts can no longer afford to be unprepared as they enter the dialogue with funding bodies and their clientele. The Third Branch must see itself as an organization committed to continuous improvement. Even more than strategic planning, **strategic management** is central to their ability to do this.

To Plan Is Everything

Eisenhower is credited with saying, "The plan is nothing, to plan is everything." The wisdom in this statement, of course, is that planning is a process, not a document. It is a mean, not an end. We prefer to use the term strategic management, rather than strategic planning, to reflect this important difference. The word management implies action. It implies involvement. It implies operational relevance. Too often, plans are created (with great fanfare and expense) and shelved while the "real" business of the organization gets done. They are the product of staff thinking that has, at best, a remote connection to line operations. This "disconnect" makes the plan largely irrelevant to the management of the organization.

Strategic management, on the other hand, suggests that the strategic plan is a direct reflection of the priorities of those who are charged with the day-to-day operation of the organization. It means that those who develop the plan are also those who must implement it. It mandates participation, involvement and ownership. It can, therefore, be used as a credible yardstick for the measurement of the organization's performance.

Courts can benefit from a strategic management focus, at both the state and individual trial court levels. A 1997 poll by the Opinion Research Corporation found that only 35 percent of those surveyed “feel that the justice system works and people get the justice they deserve. Sixty-two percent disagreed. Much work needs to be done to change this public perception.

The California courts have come a long way toward achieving this objective by creating Judicial Administration Standard 30 which essentially commits the courts to implementing the Trial Court Performance Standards. This outcome-oriented strategic management system causes individual courts to involve those they serve in the planning process, forging stronger links with the community. This deliberate outreach to users of the courts is aimed at increasing “public trust and confidence” in the performance of the courts. It serves to connect courts more directly to their communities.

The key to the success of this process is an active, continuous and relevant planning process--one that is directly reflected in the management of the court. This requires a three step process:

1. Strategic Analysis (Both Internal and External),
2. Strategy Formulation, and,
3. Strategy Implementation.

The “what” of this process is quite standard. It is the “how” that dictates success or failure. The people involved, the roles they play and the alignment they achieve between strategy and performance are the critical variables for energizing the steps listed above.

The Original Judicial Council (CPPS) Planning Model

The Judicial Council has been using an eight-step strategic planning model developed in 1991 by the Center for Public Policy Studies. It is a generic model that does not differ in scope from most commonly accepted approaches. Employed appropriately, it can realize all four benefits of the process outlined by Bryson in Strategic Planning for Public and Nonprofit Organizations: promotion of strategic thought and action, improved decision making, enhanced organizational responsiveness/improved

performance and strengthened relationships among members of the organization.

However, this is a tall order. Specifying the model is easier than making it work in individual court situations. Each court is starting at a different level of experience, skill and commitment. Over the past several years, all have been party to various planning initiatives from Trial Court Coordination to Information Systems Planning. All are aware of the Judicial Council's vision and strategic plan, but only some have undertaken strategic planning at the local level. All of this has served to heighten the statewide awareness of planning, but much has yet to be done regarding buy-in.

The long range planning process must be perceived as being practical and of operational value to local courts. This is why we emphasize "strategic management" as a necessary step beyond strategic planning itself. Strategic management is not a task limited to a single group of "planners", but is a set of managerial skills that can, and should, be used throughout the court in all its functions. As such it integrates functions, focuses the court on a broad range of stakeholders and is concerned with both efficiency and effectiveness, i.e., both "doing things right" and "doing the right things".

The Streamlined Approach

Individual courts can use the streamlined performance measurement system described in this handbook to create useful plans that are rooted in the Judicial Council's eight step strategic management framework as well as the five-step community-based strategic planning model shown on the next page.

The performance measurement system can be used at all stages of the strategy analysis, strategy formulation and strategy implementation sequence offered by these models.

Strategic Analysis

Today's courts must become "learning organizations", i.e., characterized by systems of continuous feedback and adjustment that allow for investment of resources in only value-added activities. This ensures that performance is always at its best.



The first step in becoming a learning organization is a commitment to an ordered analysis of both internal and external environments.

The key questions for courts to ask are, “How well are we doing?” and “Compared to what?”. The Trial Court Performance Standards embodied in Standard 30 can be very valuable here. All California courts have a common benchmark of outcomes specified by this standard. Using this as a starting point, it remains to specify the means by which these outcomes will be achieved.

It is important here that courts be provided with a way of developing and maintaining a “hierarchy of strategic intent”. By strategic intent we mean the purpose of the court and the ends it pursues. These can be very broad (in the form of vision or mission) or more focused (goals and objectives). The main thing is that they be consistent from broad to narrow, integrative to specific and few to many.

With the benchmark of strategic intent in place, the court can begin asking the “How well are we doing?” question of judges, employees, lawyers, jurors, attorney services, citizens and other court users and constituencies. This feedback, applied to the court’s strategic intent is the starter kit for a learning organization. It gives the court the place to begin a process of continuous improvement.

The answers to these questions are particularly important to a planning process that aims to emphasize “community outreach”. Without asking those to whom such efforts will be directed what their needs and expectations are, it is easy to misapply resources or pursue unimportant objectives.

To do this, the streamlined system described here provides courts with four custom-designed court survey systems including:

- ⊕ the **Teleserv system** for economically surveying court clientele using an 800 number telephone response.
- ⊕ an electronic **Court Performance Survey System** that economically conducts for individual courts all surveys required by the Trial Court Performance Standards measurement process.
- ⊕ a **Judicial Assignment Preference Survey**, and,
- ⊕ the **Court Work Environment Survey** for examining employee perceptions of the court.

A number of California courts have already benefited from using these systems and others are in the process of employing them at this time.

Strategy Formulation

Armed with feedback from those it serves, the individual court will then be positioned to develop strategies and manage issues. As all courts eventually undertake these activities it will be possible for the Administrative Office of the Courts (AOC) to develop sets of “best practices” to share among all courts in the State. Individual courts can develop strategies that not only fit their unique circumstances, but that stand the best chance of being replicated elsewhere. As these strategies

are formed into programs the AOC can aggregate that information for use in other jurisdictions.

Training and technical assistance can then be provided to the courts in how to improve their operating processes in order to produce greater value. Courts can define and alter their strategies based on the realities of the political/administrative environment in which they find themselves. By using appropriate tools for assessing the costs and benefits of strategic alternatives they can learn the difference between *intended* strategy and *realized* strategy, and how to learn from analyzing that difference.

Finally, using the tools provided in this handbook, courts can determine and manage the “strategy-operations fit”. They can ensure first that processes are consistent with strategy, second that processes reinforce each other, and third, that all contribute to an optimization of efforts in the court.

Strategy Implementation

The successful implementation of a strategy involves an approach akin to Deming’s PDCA Cycle. This requires a four step planning cycle:

- ⊕ **Plan-** Develop a structured approach to addressing issues,
- ⊕ **Do-** Carry out the approach as planned,
- ⊕ **Check-** Evaluate the outcomes. Are they desirable?, and,
- ⊕ **Act-** Respond to undesired outcomes by repeating the cycle.

This process brings the court full circle to the “How well are we doing?” and “Compared to what?” questions. Only by soliciting routine feedback on these two questions can the court’s strategy and its performance stay in alignment. Successful community outreach means maintaining a constant dialogue with those individuals and groups the court serves to ensure that the investment of the court’s limited resources is as effective as can be. The streamlined system outlined here makes that possible.

Specific Contributions to Community-Based Strategic Planning

Planning teams and the courts within each county can carry out the objectives of the community-based strategic planning process with the help of this handbook. These objectives include:

- ⊕ helping the courts develop closer working relationships with the legal community and the public,
- ⊕ establishing local planning processes in the courts, and,
- ⊕ providing additional education on effective strategic and action planning methods.

Although a similar model may be used for all courts, each county presents a unique set of circumstances and planning needs. Some of the larger urban courts have greater resources for planning than do smaller rural jurisdictions. Consequently, methods have been developed for data collection and strategy development that take into account these differences. Much of the automated data collection and response system described earlier was built to accommodate the needs of both small and large California jurisdictions. The automated Court Work Environment Survey was first used in one of California's smallest courts.

Trial Court Budgeting Process

As the budget allocation process becomes more centralized at the statewide level, it will be necessary to develop ways of assessing the needs and performance of individual trial courts without using artificial comparisons with other courts. After all courts have complied with the requirements of Standard 29 and created the mandated structure in each county, the emphasis will have to turn to Standard 30 and its results-oriented measures.

This means that the Trial Court Budget Commission will be able to use the outcomes achieved by individual trial courts in the areas of access to justice, expedition and timeliness, equality, fairness and integrity, independence and accountability and public trust and confidence to evaluate program needs advanced by those courts. The streamlined measurement system described in this handbook will allow every court, even the smallest, to make a performance-based case for resources.